REMARKS

Claims 1-38, 40, and 42-60 constitute the pending claims in the present application. Claims 1, 2, 15, 16, 19, 23, 28, 36-41, and 60 stand rejected. Claims 3-14, 17, 18, 20-22, 24-27, 43 and 44 are objected to as being dependent on a rejected base claim. Claims 29-35, 42, and 45-59 are withdrawn.

Information Disclosure Statement

Applicant re-submits the Information Disclosure Statement mailed October 31, 2002, together with duplicate copies of the documents cited.

Rejection under 35 U.S.C. 102(a)

Claims 1, 2, 15, 16, 23 and 28 stand rejected under 35 U.S.C. 102(a) as being anticipated by Wen et al.

Applicants respectfully assert that Wen et al. does not disclose each and every element of claim 1, and the other rejected claims. For example, Wen et al. does not disclose a composition that is capable of inhibiting growth of a neoplasm upon treatment with electromagnetic radiation, as recited in claim 1 and the other rejected claims. Therefore, Applicants respectfully request the withdrawal of this rejection.

Rejection under Obviousness-Type Double Patenting

Claims 1, 2, 19, 36-41, and 60 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-260 of U.S. Patent No. 6,166,173 to Mao et al. Applicants respectfully traverse this rejection.

"Any obviousness-type double patenting rejection should make clear: a) the differences between the inventions defined by the conflicting *claims* -- a *claim* in the patent compared to a claim in the application; and b) the reasons why a person of ordinary skill in the art would conclude that the invention defined in the *claim* in issue is an obvious variation of the invention defined in a *claim* in the patent." MPEP §804 (emphasis added).

Claim 136 of US 6,166,173, which is representative, recites an article that includes a biologically active substance that includes a radiosensitizer. The claims of US 6,166,173 do not teach a radiosensitizer in an aggregate amount equal to at least five percent by weight, as recited by the instant claim 1 and dependent claims thereon. Furthermore, the claims of US 6,166,173 application do not teach any reasonable expectation of success that a single dose of such a composition provides extended release of at least one of the radiosensitizers over a period of at least one day, as claimed in the instant application. Accordingly, withdrawal of the rejection under the doctrine of obviousness-type double patenting is respectfully requested.

CONCLUSION

In view of the foregoing remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-832-1000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this application be charged to **Deposit Account No. 06-1448.**

Respectfully submitted,
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